

00001

01 IN THE UNITED STATES DISTRICT COURT
 02 FOR THE MIDDLE DISTRICT OF ALABAMA
 03 EASTERN DIVISION
 04 CASE NO. 3:05-cv-985-MEF
 05
 06 TROY E. TILLERSON,
 07 Plaintiff,
 08 V.
 09 THE MEGA LIFE AND HEALTH INSURANCE CORPORATION,
 10 a corporation; TRANSAMERICA LIFE INSURANCE
 11 COMPANY, F/K/A PFL LIFE INSURANCE COMPANY, a
 12 corporation; NATIONAL ASSOCIATION FOR THE SELF
 13 EMPLOYED A/K/A NASE, a corporation,
 14 Defendants.
 15

16 S T I P U L A T I O N S
 17 IT IS STIPULATED AND AGREED by and between
 18 the parties, through their respective counsel,
 19 that the deposition of TROY E. TILLERSON may be
 20 taken before STACEY L. JOHNSON, Commissioner, at
 21 the Offices of Hollis & Wright, P.C., 505 North
 22 20th Street, Suite 1750, Birmingham, Alabama, on
 23 the 24th day of April, 2006.

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01 IT IS FURTHER STIPULATED AND AGREED
 02 that the signature to and the reading of the
 03 deposition by the witness is hereby waived, the
 04 deposition to have the same force and effect as
 05 if full compliance had been had with all laws
 06 and rules of Court relating to the taking of
 07 depositions.

08 IT IS FURTHER STIPULATED AND AGREED
 09 that it shall not be necessary for any
 10 objections to be made by counsel to any
 11 questions except as to form or leading
 12 questions, and that counsel for the parties may
 13 make objections and assign grounds at the
 14 time of trial, or at the time said deposition is
 15 offered in evidence, or prior
 16 thereto.

17 IT IS FURTHER STIPULATED AND AGREED
 18 that the notice of filing of the deposition by
 19 the Commissioner is waived.

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01 A P P E A R A N C E S

02

03 HOLLIS & WRIGHT, P.C., by Mr. Steven W.

04 Couch, 505 20th Street North, Suite 1750,

05 Birmingham, Alabama 35203, appearing on behalf

06 of the plaintiff, Troy E. Tillerson.

07

08 ALFORD, CLAUSEN & McDONALD, LLC, by

09 Mr. James W. Lampkin, II, One St. Louis Centre,

10 Suite 5000, Mobile, Alabama 36602, appearing on

11 behalf of the defendants, The MEGA Life and

12 Health Insurance Company, Transamerica Life

13 Insurance Company, and National Association for

14 the Self-Employed, Inc.

15

16 ALSO PRESENT: MR. BEN WILLIAMS (videographer)

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01 I, STACEY L. JOHNSON, a CSR of Montgomery,

02 Alabama, and Notary Public for the State of

03 Alabama at Large, acting as Commissioner,

04 certify that on this date, as provided by the

05 Alabama Rules of Civil Procedure and the

06 foregoing stipulation of counsel, there came

07 before me at 505 20th Street North, Suite 1750,

08 Birmingham, Alabama, beginning at 10:06 a.m.,

09 TROY E. TILLERSON, witness in the above cause,

10 for oral examination, whereupon the following

11 proceedings were had:

12 TROY E. TILLERSON,

13 the witness, after having been first duly sworn

14 to speak the truth, the whole truth, and nothing

15 but the truth, testified as follows:

16 EXAMINATION

17 BY MR. LAMPKIN:

18 Q State your full name for the Record,

19 please.

20 A Troy Eugene Tillerson.

21 Q My Tillerson, my name is James Lampkin,
22 and I represent -- who do I represent --

23 MEGA Life Health, Transamerica, and The National
00007

01 Association for the Self-Employed in a lawsuit
02 that you filed.

03 A (Witness nods head.)

04 Q I've got some questions to ask you. If
05 at any time you do not understand my question,
06 please stop me, ask me to rephrase it, explain
07 it, make it more understandable, and I'll be
08 glad to do so.

09 A Okay.

10 Q Okay. You're going to need to speak
11 up. We've got some background noise of somebody
12 hammering on something. And I'm getting a
13 little -- in my old age getting a little harder
14 of hearing, so I'm going to need you to speak up
15 so we make sure that everybody hears
16 everything.

17 If I ask you a question and you don't
18 ask me to explain it, rephrase it, make it more
19 understandable, I'm going to assume that you
20 heard the question, you understood the question,
21 and that your answer is the correct answer to
22 that question; is that fair?

23 A Yes, sir.

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01 Q And you don't have to call me sir. Yes
02 and no is fine.

03 Are you currently on any type of
04 medications that would affect your ability to
05 sit in this deposition and listen and understand
06 the questions I have to ask?

07 A No.

08 Q Do you have any sort of medical
09 condition that would affect your ability to sit
10 in this deposition, listen to the question --
11 listen and understand the questions I have to
12 ask?

13 A No. The only thing is I have to go to
14 the little boys room a lot because of my
15 hyperactive thyroid so I may have to do that,
16 but other than that, we're good.

17 Q Okay. That brings me to another
18 point. If at any time you need to take a break,
19 you let me know and we'll be glad to take a
20 break. Okay?

21 A Okay.

22 Q A lot of times whenever we sit and look
23 at each other and we talk and we -- we

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01 communicate non-verbally. We might shake our
02 head or nod our head. That makes the court
03 reporter's job harder. So I need a verbal

04 response, yes or no. Please don't say uh-huh or
05 huh-uh because when I go back and read -- read
06 it in the printed transcript, I've got to try to
07 figure out, okay, which one is this, and it just
08 makes things a little more difficult for me. It
09 doesn't make the court reporter's job that much
10 harder, but it makes my mine. Like I said, if
11 you need a break, let me know. The deposition
12 will probably take a couple of hours.

13 A Okay.

14 Q We're doing a good job of not talking
15 at the same time. Please let me finish my
16 question before you start your answer, and that
17 way we don't talk over each other. And it makes
18 the court reporter's job harder. And I'll do
19 the same thing. I'll let you finish your answer
20 before I ask the next question. Okay?

21 A Okay.

22 Q What's your home address?

23 A 1617 Sandstone Court.

00010

01 Q Is that one or two words or three
02 words?

03 A One. Well, Sandstone is one word.

04 Q Okay. Is that in Birmingham?

05 A Montgomery, Alabama.

06 Q Montgomery.

07 A 36117.

08 Q What part of Montgomery is that in?

09 A It's in the Woodmere area.

10 Q Out -- that's out 85 and the bypass
11 area?

12 A Yes, sir.

13 Q How long have you lived at that
14 address?

15 A Six years, I believe.

16 Q Who lives at that address with you?

17 A No one.

18 Q Are you currently married?

19 A No.

20 Q Have you ever been married?

21 A No.

22 Q Who are your relatives that live in the
23 Montgomery area?

00011

01 A (No response).

02 Q Let me ask you this. Do your mother
03 and father still live there?

04 A No.

05 Q Do you have any brothers and sisters
06 that live in the Montgomery area?

07 A No.

08 Q Do you have any aunts and uncles that
09 live in the Montgomery area?

10 A Sue Murchison.

11 Q Murchison, M-U-R-C-H-I-S-O-N?

12 A Yes, sir.

13 Q Okay. And that's an aunt?
14 A Yes.
15 Q Is she married?
16 A No.
17 Q Okay. Does she have any -- do you have
18 any cousins that live in the Montgomery area?
19 A Her daughter, Susan.
20 Q Susan?
21 A And I don't remember her last name.
22 She's gotten married and -- we're real close.
23 Q I went to school -- I grew up in

00012

01 Montgomery and went to a school with a boy named
02 Paul Murchison.
03 A No.
04 Q He was a punter on our football team.
05 Any other relatives that you have in
06 the Montgomery area?
07 A My aunt, Judy Dubose, my mom's sister.
08 Q Okay. Is she married?
09 A Yes.
10 Q What's her husband's name?
11 A Jerry.
12 Q Do they have any children over the age
13 of eighteen that live in the Montgomery area?
14 A No.
15 Q The reason I'm asking these questions
16 is because when we go to select a jury, I would
17 -- it wouldn't be fair for my client to have
18 your relatives on the potential jury. Likewise,
19 it wouldn't be fair for you to have relatives of
20 some of the people that I represent on the
21 jury.
22 A I understand.
23 Q And that's why I'm trying to find out.

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01 Do you have any other relatives that
02 live in the Montgomery area? In the Montgomery
03 area I'm including Prattville, Wetumpka,
04 Montgomery, Bullock.
05 A Yes. Pat Murchison is in Wetumpka,
06 yes.
07 Q How are you related to Pat Murchison?
08 A He's my cousin.
09 Q Is Pat married?
10 A Yes.
11 Q Do you know his wife's name and maiden
12 name?
13 A Her first name is Kelly. I have no
14 idea what her maiden name is.
15 Q Do they have any children over the age
16 of eighteen that live in that Montgomery area?
17 A Not that I know of. I think Megan is
18 sixteen, so I think that's the oldest one.
19 Q Have we covered all of your relatives
20 that you have that live in the Montgomery area?
21 A I believe so. Yes, sir, I think so.

22 Q How far did you go in school?
23 A I graduated.

00014

01 Q Okay. Where from?
02 A Jeff Davis.
03 Q What year?
04 A '81.
05 Q Did you attend college?
06 A No, sir.
07 Q Since graduating high school, have you
08 had any other formal type of education, whether
09 trade school, vocational?
10 A Well, computer training at Coastal in
11 Montgomery.
12 Q What was the name of the place?
13 Coastal?
14 A Coastal. And then --
15 Q When did you take the computer
16 training?
17 A Let's see. '83, '84. Something like
18 that. Man, that's been so long ago.
19 Q Any other formalized schooling other
20 than Coastal?
21 A No, sir.
22 Q Can you read and write?
23 A Yes, sir.

00015

01 Q Where are you currently employed?
02 A Ram Tool.
03 Q What's your position at Ram Tool?
04 A Inside sales.
05 Q Where is that located?
06 A 541 Oliver Road, Montgomery, Alabama.
07 Q What part of Montgomery is that?
08 A Off the Eastern Bypass. Its ZIP code
09 is 36117. I'm trying to think of the -- I guess
10 you would just call it Montgomery East.
11 Q Okay. How long have you been employed
12 there?
13 A Since October 10th.
14 Q Of 2005?
15 A Yes.
16 Q Where were you employed before Ram
17 Tool?
18 A I was self-employed.
19 Q What was the nature of your
20 self-employment?
21 A I did construction work and also custom
22 paint work.
23 Q Did your company have a name?

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01 A Prestige Paint Works and T&T
02 Construction.
03 Q Were they both in operation at the same
04 time?
05 A Yes, sir.
06 Q I got Prestige Paint Works. What was

07 the name of the construction?

08 A T&T. Not like dynamite, but T&T.

09 Q I was hearing TNT. T&T?

10 A Right.

11 Q Did you have any business partners or
12 anything with either one of them?

13 A Well, not really. We worked together
14 all the time, you know, with the same subs and
15 stuff like that, but we weren't really partners,
16 so to speak. Worked, you know, with my father,
17 you know, side-by-side kind of thing, but I
18 wouldn't call it partners.

19 Q Okay. How long were you self-employed?

20 A The best I remember about twenty-three
21 years.

22 Q Did you work primarily in the
23 Montgomery area?

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01 A Montgomery and Lake Martin area.

02 Q What did you do before you became
03 self-employed with Prestige and T&T
04 Construction?

05 A I did some work at Ebco Battery when I
06 was young, right out of school.

07 Q What did you do at Ebco Battery?

08 A I guess just general labor you'd say,
09 loaded the trucks, you know, got shipments
10 ready, that kind of stuff. You know, just
11 basic...

12 Q How long were you employed there?

13 A Maybe a year and a half to the best I
14 remember. It wasn't a long time.

15 Q Okay. Any other employment? If you
16 worked at McDonald's or something like that when
17 you were in high school, I'm really not all that
18 concerned about that.

19 A Okay. I did a little temporary stint
20 with the State way back when I was young, just
21 when they needed temporary help.

22 Q What kind of work were you doing?

23 A Just working the tax warehouse. You

00018

01 know, moving files and stuff like that. Nothing
02 to really amount to anything.

03 Q Before you purchased the policy that
04 we're here about in the lawsuit, did you have
05 any sort of health insurance previously?

06 A No, sir.

07 Q With your position with Ram Tool is
08 health insurance one of the benefits you
09 currently have?

10 A Yes.

11 Q Are you covered by that insurance?

12 A Well, I have, you know, the waiting
13 period beforehand, so I think I've still got --
14 let's see. October. So I've still got quite a
15 few months before it completely kicks in, but,

16 yes, I'll be using that as soon as it kicks in,
17 BlueCross BlueShield.

18 Q Okay. That's BlueCross BlueShield?

19 A Yes, sir.

20 Q And you've been on that since October
21 of 2005 when you went to work with Ram Tool?

22 A Well, yes, sir.

23 Q Subject to the --

00019

01 A Right. Right.

02 Q -- waiting period?

03 A Right.

04 Q Are you having to pay any part of the
05 premiums on that coverage?

06 A Well, yes, sir. They take it out of my
07 check.

08 Q How much do they take out?

09 A I don't know exactly. If I'm not
10 mistaken, it's about a hundred and thirty,
11 hundred and forty a month. Something like
12 that. I'm not exactly sure.

13 Q Do you know how much Ram Tool pays of
14 your insurance premium?

15 A No, sir.

16 Q Tell me how you came to purchase the
17 policy at issue in this case. How did that come
18 about?

19 A Sue Tinkey, who handled all the
20 paperwork for the construction and the paint
21 business, stuff like that, she was just
22 concerned that I needed to get some coverage,
23 and she called me up one day. And I -- I don't

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01 know whether she had saw it in a magazine or saw
02 it on TV or what, but she had gotten in touch
03 with the agent. And she told me, she said, you
04 know, I think you need to meet with him up here
05 and, you know, let's get you some health
06 insurance. So I met with him and just got
07 signed up.

08 Q Who is Sue Tinkey?

09 A Sue Tinkey is my father's common-law
10 wife.

11 Q How long have you known Sue Tinkey?

12 A Gosh, I don't know exactly, but I would
13 say around fifteen years or so. Maybe longer.

14 Q Because you purchased this policy, I
15 believe, almost ten years ago. Back in 1996, I
16 believe.

17 A That sounds about right, then. About
18 fifteen years, I believe.

19 Q So was Sue handling the paper -- you
20 said she was handling the paperwork. Was she
21 handling the paperwork for your self-employed
22 business?

23 A Right. Right. She -- she pretty much

00021

01 acted like a secretary for both me and my
02 father.
03 Q Is she -- and is Sue and your father
04 still together?
05 A Yes.
06 Q What's her address?
07 A 459 Silver Hill Road, Dadeville,
08 Alabama 36853, I believe. I'm not exactly sure.
09 Q Now, is Dadeville up around Lake
10 Martin?
11 A Yes, sir.
12 Q So Sue tells you she's set up -- she's
13 contacted somebody and set up a meeting for you;
14 right?
15 A Right.
16 Q To talk to somebody about health
17 insurance?
18 A Yes, sir.
19 Q Do you remember the name of the person
20 you talked to?
21 A Dan Spawn (sic), or something like
22 that.
23 Q Where did that meeting occur?
00022
01 A At my father's house.
02 Q Who was present at the meeting?
03 A My father, Sue, myself, and Mr. Spawn.
04 Q I didn't -- what's your father's name?
05 A Troy Tillerson.
06 Q Are you a junior or --
07 A No, sir. He's Troy M. I'm Troy E.
08 Q Okay. So it was you, your father?
09 A Sue.
10 Q Sue.
11 A And Mr. Spawn.
12 Q Were Sue and your father in the room
13 when Mr. Spawn was talking to you about the
14 coverage?
15 A Sue was the whole time.
16 Q So your father may have been in and
17 out?
18 A Yes, sir. You know, going to take a
19 shower. That kind of stuff, you know.
20 Q Tell me what you recall Mr. Spawn
21 telling you about the policy he was presenting
22 to you.
23 A Well, the best I remember -- you know,
00023
01 it's been a -- been a while back -- he was just
02 basically showing me, you know, the benefits of
03 it. And by the fact that it was a group policy
04 based off of all -- I mean, not unemployed --
05 self-employed individuals in the state of
06 Alabama, he was explaining to me that's how they
07 kept their rates low and that type of stuff.
08 And, you know, basically that kind of thing.
09 Q Do you recall anything else he told you

10 about? Do you recall any specifics of what he
11 told you about the benefits available under the
12 policy?

13 A Let me think. Like I said, it's been
14 so long ago. He pointed out that you couldn't
15 be singled out for rate increases. He said
16 that, you know, later if I were to get married
17 and that kind of thing, my wife could get on.
18 You know, she would automatically qualify.
19 That -- that type of stuff. Like I said, you
20 know, it's been so long I -- I couldn't tell you
21 word for word what he said.

22 Q Okay. I don't know the exact date. I
23 know the effective date of the policy was July
00024
01 26th of 1996, so we're pretty close to ten years
02 ago.

03 A Yes.

04 Q Nine years. Nine --

05 A That's a long time ago.

06 Q -- and three quarter years out.

07 How long did the meeting last?

08 A The best I can remember, about an hour,
09 hour and a half at the most.

10 Q Let me ask you this. At that time, did
11 Sue purchase any coverage from Mr. Spawn?

12 A I don't know.

13 Q Okay.

14 A I just -- I don't know if she did or
15 not.

16 Q What about your father? Did he
17 purchase any coverage?

18 A No.

19 Q Do you know if your father already had
20 coverage from the same insurance company?

21 A No. He's with -- had
22 BlueCross BlueShield since he was with the fire
23 department.

00025
01 Q What about Sue? Do you know if she had
02 any coverage?

03 A I have no idea about Sue.

04 Q Do you know anybody else that has
05 coverage from -- I believe it's PFL the policy
06 is written on. Do you know of anybody else who
07 has a policy --

08 A No, sir.

09 Q -- like yours?

10 A No, sir.

11 Q After this meeting with Mr. Spawn, did
12 you have any subsequent meetings with him?

13 A No, sir.

14 Q Did you ever talk to him again?

15 A No, sir.

16 MR. COUCH: James, I don't mean to
17 interrupt you. This guy's name is -- according
18 to your Rule 26 stuff is Splawn, S-P-L-A-W-N.

19 Dan Splawn. Just so that reads right.

20 MR. LAMPKIN: Yeah, I thought that was
21 right, but...

22 Q So after Mr. Splawn leaves that day,
23 you haven't had any other conversations with him

00026

01 about your policy?

02 A No, sir.

03 Q Have you had any conversations with him
04 about any rate increases?

05 A No, sir. I've never spoke to him
06 again.

07 Q What did Mr. Splawn tell you the
08 premiums would be on your policy?

09 A I don't remember.

10 Q In the complaint, there's an allegation
11 that you were told that it was a, quote, major
12 medical, closed quote, policy. Do you recall
13 that term being used?

14 A To the -- to the best of my knowledge,
15 yes. It -- it was supposed to take care of all
16 that type of stuff.

17 Q Okay. Well, let's look at what we're
18 going to -- what's your understanding -- what
19 was your understanding in 1996 of what a major
20 medical policy was, or did you have an
21 understanding?

22 A Well, to me, that, you know, meant that
23 any illnesses, hospital visits, you know,

00027

01 that -- that type of stuff would be, you know,
02 took care of and -- you know, like I said, I --
03 I'm just talking off what I can remember from
04 that long ago, so...

05 Q Yes, sir.

06 A You know.

07

08 (Whereupon, Defendants' Exhibit
09 Number 1 was marked for identification
10 and copy of same is attached hereto.)

11

12 Q I'm going to show you what I'm marking
13 as Exhibit 1. It consists of two pages. It
14 would be Exhibit 1 to your deposition. And this
15 would be a Certificate Schedule.

16 A (Witness reviews document.)

17 Q Did you -- after you purchased the
18 policy, did you receive the policy itself? Did
19 you get a copy of your policy in the mail?

20 A It was sent to my father's house, and
21 Sue gave it to me, yes.

22 Q Okay. So you -- at some point in 1996,
23 you will agree that you received the policy?

00028

01 A Yes, sir.

02 Q So you've had that policy in your
03 possession to this date; is that right? Unless

04 you gave it to your attorney?

05 A Well, I -- I gave it back to Sue. I
06 don't know if she gave it to Mr. Couch or not.

07 Q Okay. Do you remember when you -- do
08 you know when you gave the policy to Sue?

09 A It was shortly after she gave it to
10 me. I, you know, just looked through it. I
11 mean, what little I could understand from, you
12 know, all that insurance jargon, you know. I
13 basically just saw that I had it and let her
14 have it back. She keeps, like I said, most all
15 the records.

16 Q When you looked through the policy in
17 1996 after you received it, did you have any
18 question or concern about the policy you
19 purchased?

20 A At that time, no.

21 Q If you look at it in what I've marked
22 as Exhibit 1, it's got a schedule of benefits
23 payable. Then it's got both in network and out
00029

01 of network. You come down, and you've got
02 out-of-pocket maximums. Then you've got
03 coinsurance and things like that that are
04 listed.

05 Did you review that whenever you looked
06 at the policy?

07 A To be honest, I don't remember.

08 Q That's fair. I'm going to show you
09 what we're going to mark as Exhibit 2 to your
10 deposition. And this is a part of the policy.

11
12 (Whereupon, Defendants' Exhibit
13 Number 2 was marked for identification
14 and copy of same is attached hereto.)
15

16 MR. COUCH: So we're clear, Exhibit 1
17 are pages 8 and 9 that are the bottom of the
18 page, right-hand corner?

19 MR. LAMPKIN: Yeah. I -- let me
20 identify. Exhibit 1 consists of Bates labels
21 TI300011 and 12. Exhibit 2 is TI3000 -- that's
22 three zeros -- 23, just for the Record.

23 Q And -- and I'll -- Mr. Tillerson, I'll
00030

01 represent this is actually a part of the policy
02 that would have been provided to you. You see
03 down at the bottom it says Premium Changes?

04 A Uh-huh.

05 Q Tell me if what I read is correct. We
06 reserve the right to change the table of
07 premiums on a class basis becoming due under the
08 group policy at any time and from time to time
09 provided we have given the group policyholder
10 written notice of at least 31 days prior to the
11 effective date of the new rates. Is that what
12 that says?

13 A Uh-huh. Yes, sir.
 14 Q Can you understand that's saying the
 15 company reserves the right to the change
 16 premium?
 17 A Yes.
 18 Q And if you would have read that back in
 19 1996, you would have known that the company had
 20 the right to change the premiums; right?
 21 A Yes.
 22 Q You said that Mr. Splawn said you
 23 couldn't be singled out for a rate increase.

00031

01 What did he say -- what did he tell you in
 02 regard to that?
 03 A Well, he told me that since it was a
 04 group policy, that no one person could be
 05 singled out. That if a rate increase occurred,
 06 it would be across the board.
 07 Q Okay. In other words, you couldn't --
 08 you yourself wouldn't be the only one that would
 09 get a rate increase?
 10 A Exactly.
 11 Q And this conversation occurred when you
 12 met with him back in 1996?
 13 A Yes, sir.
 14 Q In your complaint, you have made
 15 allegations that -- let me find it so I'll make
 16 sure I get it right. You made several
 17 allegations related to what is called fraud.
 18 Both -- there's several species of fraud in
 19 Alabama. Tell me what -- and basically it's --
 20 it's Mr. Splawn told you something that wasn't
 21 true. Okay?
 22 A (Witness nods head.)
 23 Q One of the counts is that he knew it

00032

01 wasn't true when he told you that. Tell me
 02 everything that you say that Mr. Splawn told you
 03 that wasn't true that he knew was not true.
 04 MR. COUCH: Object to the form.
 05 MR. LAMPKIN: What's wrong?
 06 MR. COUCH: To the extent that your
 07 question calls for a legal conclusion under the
 08 application of law fact, which on the premise of
 09 the question, you started giving him an example
 10 or talk as to the different animals or variety
 11 of fraud in the state of Alabama.
 12 MR. LAMPKIN: Okay. The complaint --
 13 I'm going based on what's in the complaint. And
 14 let me find it. Fraudulently misrepresented and
 15 failed to disclose the true nature. The
 16 representation made by the defendants were false
 17 and the defendants knew they were false. So
 18 that's intentional fraud.
 19 MR. COUCH: And it's also a legal
 20 conclusion alleged by his attorney, me.
 21 MR. LAMPKIN: Okay. I want to know

22 what it is that he contends he was told that
23 wasn't true.

00033

01 MR. COUCH: Yeah. And I'm not telling
02 him -- I'm not instructing this witness not to
03 answer.

04 MR. LAMPKIN: I understand.

05 MR. COUCH: I'm putting my objection to
06 form on the grounds that I stated on the Record.

07 A Well, the fact about the -- telling me
08 that there was a group policy and when, you
09 know -- and then evidently it wasn't because I
10 was informed -- well, I saw on TV this thing
11 about MEGA Life. And I called the law office,
12 and they referred me to Mr. Couch and he
13 explained to me what was going on.

14 Q Okay.

15 A That's, you know -- that's -- that's
16 basically how I had found out about it.

17 Q All right. So you saw an ad on TV?

18 A Yes.

19 Q Do you recall what law firm it was that
20 had the ad?

21 A Goldberg.

22 Q Goldberg law firm. What station did
23 you see that on?

00034

01 A I don't remember.

02 Q Okay. So you called the Goldberg law
03 firm, and then they referred you to Mr. Couch's
04 office?

05 A Yes, sir.

06 Q Did you ever have any meetings or
07 anything with the Goldberg law firm?

08 A No, sir.

09 Q What did the ad say?

10 A To be honest, I don't remember. It
11 just -- it caught my attention when it named
12 MEGA. And I called just to see, you know, what
13 it was about and -- because, you know, that was
14 my insurance company. I see this on TV and it
15 concerned me.

16 Q Who did you talk to at the Goldberg
17 firm?

18 A I -- man, that's been -- I -- I don't
19 know.

20 Q How long ago was it that you talked to
21 the Goldberg firm?

22 A I couldn't tell you exactly. Well, I
23 don't want to tell you a lie.

00035

01 Q Give me your best -- your best
02 recollection.

03 THE WITNESS: Well, it was a couple of
04 months before I met with you, so when -- when
05 did we -- last...

06 MR. COUCH: We first met in August of

07 last year.

08 A Okay. August of -- of 2005, so it was
09 a couple of months before that, you know,
10 roughly.

11 Q Okay. What were you told by the person
12 you spoke to at the Goldberg firm?

13 MR. COUCH: Object to the form of the
14 question, and I'm going to instruct the witness
15 not to answer to the extent that he's asking for
16 communications between he and counsel.

17 MR. LAMPKIN: Okay. Let me -- so
18 you're asserting it's protected by the
19 attorney-client privilege?

20 MR. COUCH: Oh, absolutely.

21 Q Mr. Tillerson, you saw an ad on TV;
22 right? Is that correct?

23 A Yes, yes, yes.

00036

01 Q Okay. You saw MEGA's name mentioned,
02 so you picked up the phone and you called the
03 Goldberg firm; is that right?

04 A Yes.

05 Q Okay. During this conversation, did
06 you talk to a lawyer?

07 A I don't remember.

08 Q Okay. When you picked up the phone and
09 called the Goldberg firm, were -- had you
10 retained the Goldberg firm to represent you in
11 any way regarding any matter related to MEGA?

12 A I'm not sure I understand what you're
13 asking.

14 Q Had you -- had you hired them as your
15 lawyer?

16 A Well, I thought they were going to take
17 care of it and -- so, yes. And then they
18 referred me to Mr. Couch.

19 Q And I'm not asking you what you talked
20 to Mr. Couch about.

21 A No, no, no. I'm just saying when I
22 called them, I was assuming they were going to,
23 you know...

00037

01 Q Had you asked them to represent you
02 when you called them?

03 A Well, I guess -- I guess so. I called
04 them and, you know, asked them what I needed to
05 do, so I -- like I said, it's been a while,
06 man. I don't remember the exact words. But,
07 yeah, I thought they were taking care of it. As
08 a matter of fact, I was a little surprised when
09 I heard, you know, from Mr. Couch's office.

10 Q Had you ever signed a contract with the
11 Goldberg firm retaining them to represent you in
12 any matter related to MEGA?

13 A To be honest, I don't remember. Sue
14 has me sign stuff all the time. It's possible.
15 I don't know to be honest.

16 Q Did you ever go to the offices -- the
17 Goldberg offices and sit down with somebody and
18 talk to them or just --

19 A No.

20 Q Let me ask you. Did you have just one
21 telephone conversation with them?

22 A Yes.

23 Q And this is when you called them after
00038

01 seeing the ad; is that right?

02 A Right. Then after that, Sue talked to
03 them.

04 Q And you never went in and sat down with
05 a lawyer and -- and signed any sort of contract
06 with the Goldberg firm for them to represent
07 you?

08 A Like I said, I did not go to their
09 offices, so...

10 Q Are you aware of signing any sort of
11 contract with the Goldberg firm?

12 A Like I said, I -- I don't know for a
13 fact, you know. Sue may have said, here, you
14 need to sign this, and I signed it. I don't ask
15 her questions.

16 Q Again, my question is, do you recall
17 what you were told in this conversation with the
18 Goldberg firm --

19 A No.

20 Q -- about -- okay. Let me finish --
21 about MEGA and anything about them in relation
22 to the ad and what you recall?

23 A No.

00039

01 Q So, as I understand it, the thing that
02 we've got that's not true is that this was a
03 group policy; is that right?

04 A (Witness nods head.)

05 Q Is there anything else that you say
06 that you were told by Dan Splawn back in 1996
07 that was not true?

08 A At this time, that's -- you know, the
09 major thing was that it was a group policy based
10 on all the self-employed people in the state of
11 Alabama and that's why I could not be singled
12 out for a rate increase.

13 Q So I guess we could add as number 2 you
14 could not be singled out as a rate increase?

15 A Well...

16 Q Or do you want to put --

17 A You know, that's -- you know, that's
18 something I haven't really got into too much.
19 Right now we're -- you know, just the fact that
20 he misrepresented the fact that it was a group
21 policy.

22 Q Another claim in the complaint is --
23 let me find it -- that the defendants concealed

00040

01 facts. It's called suppression of material
02 facts. Concealed information from you. What is
03 it that you contend that was concealed from you
04 that you should have been told that you were
05 not?

06 MR. COUCH: Object to the form.

07 Q You can answer.

08 MR. COUCH: Yeah.

09 THE WITNESS: I thought you were --

10 MR. COUCH: No. I was just putting my
11 objection on the Record.

12 A Just the fact that I was told it was a
13 group policy and evidently it wasn't, you know.

14 Q Is there anything else that you say
15 that you -- was concealed from you that you
16 should have been told that you were not told?

17 MR. COUCH: Same objection.

18 A To the best of my knowledge, no.

19 Q Okay. I think the last count is
20 probably the same as the first, but let me make
21 sure. The last count is basically that the
22 defendants innocently, recklessly, negligently,
23 wantonly made misrepresentations to you. Would

00041

01 that be the same thing we just covered --

02 A Same thing.

03 Q -- under the group policy?

04 A Yes.

05 Q Anything else? Is there anything else
06 that you assert that you were told that wasn't
07 true?

08 A To the best of my recollection at this
09 time, I'm going to have to say no.

10 Q Is there anything else that we've not
11 covered that you say that you were not told that
12 you should have been told about the insurance?

13 A I would have to say to the best of my
14 knowledge that's it right now.

15 Q Prior to purchasing the policy at issue
16 from PFL, have you attempted to purchase any
17 other health insurance?

18 A Before getting this? No, sir.

19 Q Up until the time you went to work at
20 Ram Tool and were covered by or became at least
21 eligible for the BlueCross BlueShield coverage,
22 did you attempt to purchase any other health
23 insurance from any other carrier besides PFL?

00042

01 A Yes. I looked around, but nobody would
02 touch me because of preexisting, you know...

03 Q Okay. When did you look around?

04 A Wow. I'd have to say it was about five
05 years ago. Something like that.

06 Q Which insurance companies did you talk
07 to?

08 A Just BlueCross BlueShield.

09 Q And you were told they wouldn't cover

10 you?

11 A Right.

12 Q What preexisting conditions did they
13 tell you that you had that prevented you from
14 being covered by their -- by their policy?

15 A Hyperactive thyroid and Graves'
16 disease.

17 Q Hyperactive thyroid?

18 A Yes, sir.

19 Q I think in -- I saw something that
20 referenced leukemia. Do you have leukemia?

21 A Well, I have a form of leukemia called
22 polycythemia vera, or something like that. But
23 the -- it's not the white blood cell type

00043

01 leukemia. It's where your body makes too much
02 red. Yeah, so I have that as well.

03 Q Okay. Did BlueCross tell you they
04 wouldn't cover you because of that?

05 A To tell you the truth, I don't remember
06 that -- I -- I -- I -- I don't remember that. I
07 do remember specifically, though, the Graves'
08 disease. They didn't want anything to do with
09 it.

10 Q When were you diagnosed with the
11 hyperactive thyroid?

12 A I don't know exactly, but it's probably
13 close to around seven, eight years ago.

14 Q Who's the doctor treating you for that?

15 A Dr. Pino.

16 Q Spell the last name, please.

17 A P-I-N-O.

18 Q And where is Dr. Pino?

19 A Brookwood Medical Facility here in
20 Birmingham.

21 Q Has he been treating you for seven or
22 eight years?

23 A No, sir. He's -- he's been seeing me

00044

01 the last few years.

02 Q Who treated you before that?

03 A Let me think what his name was. It was
04 in Montgomery. I can't believe I'm drawing a
05 blank. I can't believe I can't remember his
06 name. I want to say Dr. Trippe --

07 Q Okay.

08 A -- I believe was his name.

09 Q What about the Graves' disease? Who's
10 treating you for that?

11 A Dr. Pino.

12 Q Dr. Pino. When were you diagnosed with
13 Graves' disease?

14 A Just shortly after they found out about
15 my hyperactive thyroid. It's all kind of
16 connected.

17 Q Now, I've never heard of Graves'
18 disease. I don't do a lot of medical work.

19 What is that?

20 A Well, basically -- now, this is the
21 best of my understanding. Graves' disease
22 makes, among other things -- it makes your eyes
23 bug out because the muscles behind your eyes

00045

01 swell to the point to where it puts so much
02 pressure on them that it can mess up your
03 sight. You know, things like that. So I had to
04 have an orbital decompression where they open
05 the wholes up in my skull bigger to accommodate
06 the swelling because there's not much else they
07 can do about it.

08 Q Okay. Who is treating you for the
09 leukemia condition?

10 A Dr. Morrison at The Cancer Center in
11 Montgomery.

12 Q When were you diagnosed with that?

13 A I don't remember exactly. It's been
14 probably in the last four years, I would say.

15 Q Okay.

16 A Four or five maybe. I don't remember
17 exactly. It seems like some -- somewhere around
18 there. Sue's got that in all the -- all the
19 records.

20 Q I'll tell you what. We've been going
21 about an hour. Why don't we take a short
22 break?

23

00046

01 (Whereupon, a brief recess was had in
02 the proceeding.)

03 EXAMINATION

04 BY MR. LAMPKIN:

05 Q Mr. Tillerson, can you tell me -- you did
06 file claims on your insurance policy; correct?

07 A Yes, sir.

08 Q Okay. And you did have claims that
09 were paid; right?

10 A Yes, sir.

11 Q The payment of any of those claims is
12 not at issue in this lawsuit, is it?

13 A No, sir.

14 Q Okay. I just wanted to verify that.

15 I believe you purchased -- your policy
16 went into effect -- I know it went into effect
17 in July of 1996. When was the first time you
18 received notification that your rates would
19 increase?

20 A I don't remember.

21 Q I'm going to show you what we're going
22 to mark as Exhibit 3 to your deposition.

23

00047

01 (Whereupon, Defendants' Exhibit
02 Number 3 was marked for identification
03 and copy of same is attached hereto.)

04

05 Q And it's two pages. And those are
06 TI300037 and 39.

07 Mr. Tillerson, these are documents that
08 your attorney produced to us as being documents
09 that you had in your possession?

10 A Okay.

11 Q Exhibit 3 is a letter dated December
12 21, 1998; correct?

13 A Yes, sir.

14 Q Okay. Back in 19 -- December of 1998
15 was your address 459 Silver Hill Road,
16 Dadeville, Alabama?

17 A Beg your pardon?

18 Q Is that the correct address for
19 December of 1998?

20 A Well, that's where Sue got everything
21 sent because that's -- like I said, she took
22 care of the paperwork. That's my father's
23 house. I did not live there. No.

00048

01 Q Okay. This is a notification that your
02 premium was going to increase to three hundred
03 and ten dollars a month; is that correct?

04 A Yes, sir.

05 Q You see that?

06 A Yes, sir.

07 Q And if you look down in the one, two,
08 three, fourth paragraph on the first page, tell
09 me if what I'm reading is correct. Although no
10 one likes rate increases, the insurance company
11 must keep pace with the rising costs to be able
12 to pay future claims. Everyone with coverage
13 such as yours will experience an increase.
14 Therefore, your premium will increase to three
15 hundred and ten dollars on January 26, 1999;
16 correct?

17 A Uh-huh. Yes, sir.

18 Q After you received this increase, what
19 did you do -- or this notice that it was -- your
20 premium was going to increase, what did you do?

21 A I -- what do you mean what did I do? I
22 paid it.

23 Q Did you call anybody?

00049

01 A Not that I remember.

02 Q Did you have any discussions with
03 anybody at PFL Life Insurance Company?

04 A Not at that time, no.

05 Q If you look down in the next paragraph,
06 the fifth paragraph, the second sentence says to
07 limit the amount of increase or possibly even
08 lower your premium, you may want to consider
09 changing your benefit level.

10 Did you do anything to change your
11 benefit level at that time?

12 A No, sir, not that I recall.

13 Q Are you aware that -- of any evidence
14 that would contradict the statement in this
15 letter that everyone with coverage such as yours
16 will experience an increase?

17 MR. COUCH: Object to the form. Go
18 ahead.

19 THE WITNESS: Do I --

20 MR. COUCH: No. I put an objection on
21 the Record.

22 A Could you repeat the question?

23 Q Are you aware of any evidence that
00050

01 would contradict the statement contained in this
02 letter that everyone with coverage such as yours
03 will experience an increase?

04 MR. COUCH: Same objection.

05 A At that time, no. But since all this
06 is going on, you know, I believe that to
07 be the case.

08
09 (Whereupon, Defendants' Exhibit
10 Number 4 was marked for identification
11 and copy of same is attached hereto.)
12

13 Q I'm going to get to there -- that in
14 just a little bit.

15 I'll show what I'm going to mark
16 Exhibit 4 to your deposition, which is Bates
17 labeled TI300041 and 42, and this is a June 21,
18 1999 letter to you from PFL Life Insurance
19 Company?

20 A (Witness reviews document.)

21 Q Do you recall seeing this letter
22 before?

23 A Well, I don't remember it, but I -- you
00051

01 know, I'm not saying I didn't get it or
02 anything.

03 Q Whose writing is that on that letter?
04 There's some handwritten notations.

05 A I would say possibly Sue's writing, Sue
06 Tinkey.

07 Q Okay. So you believe that would be Sue
08 Tinkey's writing?

09 A Now, I can't say for sure, but I would
10 say that's probably it because, like I said, she
11 handled all the paperwork.

12 Q Does that look like your writing
13 anywhere on there?

14 A No. That's -- no. That's not my
15 writing. I know that for a fact.

16 Q And on June 21, 1999, you were advised
17 that your premiums were going to increase to
18 three hundred and seventy-five dollars; correct?

19 A Yes, sir, that's what that says.

20 Q And, again, in the fourth paragraph,
21 the second sentence, everyone with coverage such

22 as yours will experience an increase.
23 Therefore, your premium will increase to three

00052

01 seventy-five on July 26, 1999; correct?

02 A Yes.

03 Q And we come down to the fifth paragraph
04 and it says, to limit the amount of increase or
05 possibly even lower your premium amount, you may
06 want to consider changing your benefit level;
07 correct?

08 A Yes.

09 Q And you've had that document in your
10 possession, as well as Exhibit 3, since they
11 were sent in 1998 and 1999; right?

12 A Yes.

13 Q I understand you may have -- Sue may be
14 handling your paperwork, but --

15 A Right. Right.

16 Q -- she was the person --

17 A Who provided the documents, so she had
18 them.

19 Q Okay. And I'm going to show you what
20 I'm going to mark as Exhibit 5 to your
21 deposition. We'll make this -- it's two pages.
22 It's TI300044 and 45. I think I put this
23 exhibit on the wrong piece of paper.

00053

01

02 (Whereupon, Defendants' Exhibit
03 Number 5 was marked for identification
04 and copy of same is attached hereto.)

05

06 Q This is a June 28, 1999 letter to you;
07 correct?

08 A Yes, sir, it's addressed to me.

09 Q Okay. And it says as -- first
10 paragraph says, as requested, we've changed your
11 preferred provider organization plan to Plan D,
12 effective July 26, 1999; correct?

13 A Yes.

14 Q The enclosed documents reflect the
15 change. Please keep them with your certificate
16 for future reference. Then it says, due to this
17 change, your total monthly premium is now two
18 hundred and sixty-nine dollars; correct?

19 A Yes.

20 Q And the enclosed document appears to be
21 an endorsement that says, preferred provider
22 organization plan option has been changed to
23 Plan D. All other benefits have been changed

00054

01 accordingly. The schedule of benefits
02 reflecting the change is effective July 26,
03 1999; correct?

04 A Correct.

05 Q And you've had that document in your
06 possession since sometime in 1999?

07 A Yes, sir.
08 Q I'll show you what I'm going to mark as
09 Exhibit 6 to your deposition, which consists of
10 TI300051 and 52.

11
12 (Whereupon, Defendants' Exhibit
13 Number 6 was marked for identification
14 and copy of same is attached hereto.)
15

16 A (Witness reviews document.)

17 Q This is a letter dated December 20,
18 1999 to you?

19 A Yes, sir.

20 Q Okay. And this reflects that your
21 premium is going to increase to three hundred
22 and thirty-one dollars; correct?

23 A Yes.

00055

01 Q And, again, if we come down to the
02 fourth paragraph it says, everyone with coverage
03 such as yours will experience an increase.
04 Therefore, your premium will increase to three
05 hundred and thirty-one dollars on January 6,
06 2000?

07 A Correct.

08 Q And, again, the fifth paragraph, to
09 limit the amount of the increase or possibly
10 even lower your premium amount, you may want to
11 consider changing your benefit level; correct?

12 A Correct.

13 Q And you've had that document in your
14 possession since late 1999; correct?

15 A Yes.

16 Q I'll show you what I'm going to mark as
17 Exhibit 7 to your deposition, which consists of
18 TI300053. And, apparently, we didn't get the
19 second page on this one. But the first page is
20 what I need.

21
22 (Whereupon, Defendants' Exhibit
23 Number 7 was marked for identification

00056

01 and copy of same is attached hereto.)

02 MR. COUCH: And by the way, James, are
03 those Bates stamp numbers from my office or your
04 office?

05 MR. LAMPKIN: They're from my office.

06 MR. COUCH: Okay, good. Because the
07 thing I handed you this morning in supplement
08 didn't have a stamp like that.

09 MR. LAMPKIN: The three tells me
10 they're from -- who they're from, the three at
11 the first. Because ours -- the ones we produced
12 had a zero, so that tells me they're from you.

13 MR. COUCH: Okay. Got you.

14 Q Mr. Tillerson, this is a -- and I'll
15 tell you what. Let's just attach TI300056 and

16 57, which is the same letter. We'll just make
17 that part of Exhibit 3 since it does have both
18 pages. This is a letter dated June 19, 2000;
19 correct?
20 A Yes.
21 Q And it's to you; right?
22 A Yes.
23 Q This is advising you that your premium

00057

01 is going up to three hundred and fifty-three
02 dollars; correct?
03 A Yes.
04
05 (Whereupon, a brief interruption was
06 had in the proceeding.)
07
08 Q If you come down, you see a little
09 table there. It's got current rate and new
10 rate; correct?
11 A Correct.
12 Q Then it -- in the sentence below that
13 it says, your new billing amount will be
14 increasing to three hundred fifty-three dollars
15 on July 26, 2000; right?
16 A Yes.
17 Q Is that 7?
18 MR. COUCH: He was asking if that's
19 Number 7.
20 A Oh, yes, yes, yes.
21 Q And you've had that document in your
22 possession since sometime in 2000?
23 A Yes, sir.

00058

01 Q I'll show you what I'm going to mark as
02 the next exhibit. This will be Exhibit 8 to
03 your deposition. It is two pages Bates labeled
04 TI300059 and 60.
05
06 (Whereupon, Defendants' Exhibit
07 Number 8 was marked for identification
08 and copy of same is attached hereto.)
09
10 Q Is that a letter dated to you December
11 26, 2000, Mr. Tillerson?
12 A Yes.
13 Q And that document letter is advising
14 you that your premiums are going to go up to
15 three hundred and sixty-seven dollars a month;
16 correct?
17 A Yes.
18 Q And, again, if we come down to the
19 fourth paragraph it says, everyone with coverage
20 such as yours will experience an increase.
21 Therefore, your premiums will increase to three
22 hundred and sixty-seven dollars on June 26,
23 2000?

00059

01 A Yes.
02 Q 2001. I'm sorry. Correct?
03 A Correct.
04 Q And you've had that document in your
05 possession since late December 2000?

06 A Yes.
07 Q I'll show you the next exhibit, which
08 is TI300062, and we're going to mark it as
09 Exhibit 9.

10
11 (Whereupon, Defendants' Exhibit
12 Number 9 was marked for identification
13 and copy of same is attached hereto.)
14

15 Q Is that a letter to you dated June 25,
16 2001?

17 A Yes.

18 Q And that letter is advising you your
19 premiums are going to increase to three hundred
20 and seventy-eight dollars a month?

21 A Yes, sir.

22 Q And, again, the fourth paragraph of the
23 letter says, everyone with coverage such as
00060

01 yours will experience an increase. Therefore,
02 your premium will increase to three hundred and
03 seventy-eight dollars on July 26, 2001; correct?

04 A Yes.

05 MR. LAMPKIN: Again, let's just go on
06 and make TI300065 and 66 part of Exhibit 9.
07 It's the same letter. I just didn't have the
08 back page with that first one. Will you check
09 it and see?

10 MR. COUCH: I trust you.

11 Q Mr. Tillerson, I'm going to show you
12 the next exhibit, which is -- on the wrong page
13 again. It's going to be Exhibit 10 to your
14 deposition, which consists of documents Bates
15 labeled 30069 (sic) through 70.
16

17 (Whereupon, Defendants' Exhibit
18 Number 10 was marked for identification
19 and copy of same is attached hereto.)
20

21 A (Witness reviews document.)

22 Q Is that a letter to you dated December
23 24, 2001?
00061

01 A Yes, sir.

02 Q And that letter is advising you your
03 premiums are going to increase to four hundred
04 and nine dollars; correct?

05 A Correct.

06 Q And, again, the fourth paragraph says,
07 everyone with coverage such as yours will
08 experience an increase. Therefore, your premium
09 will increase to four hundred and nine dollars

10 on January 26, 2002?

11 A Correct.

12 Q And you've had that document in your
13 possession since late 2001 or early 2002?

14 A Yes, sir.

15
16 (Whereupon, Defendants' Exhibit
17 Number 11 was marked for identification
18 and copy of same is attached hereto.)
19

20 Q Let me show you Exhibit 11 to your
21 deposition, which are documents Bates labeled
22 TI300073 through 74. No. Just 73. I'm sorry.
23 I don't have the other page.

00062

01 A (Witness reviews document.)

02 Q Is that a letter dated to you -- to you
03 dated June 24, 2002?

04 A Yes, sir.

05 Q And that's advising you the premium is
06 going to increase to four hundred and
07 fifty-eight dollars; is that correct?

08 A Yes, sir.

09 Q You see where it says -- the
10 handwriting on that above the exhibit label? Do
11 you know whose handwriting that is?

12 A I would have to assume it was Sue's. I
13 do not know. It's not mine.

14 Q And it says fee schedule; right?

15 A I believe so.

16 Q That's what it appears to be to me.

17 A Right.

18 Q Okay. If we come down to the fourth
19 paragraph again -- the fourth paragraph of
20 Exhibit 11 it says, everyone with coverage such
21 as yours will experience an increase.
22 Therefore, your premium will increase to four
23 hundred and fifty-eight dollars on July 26,

00063

01 2002; correct?

02 A Correct.

03
04 (Whereupon, Defendants' Exhibit
05 Number 12 was marked for identification
06 and copy of same is attached hereto.)
07

08 Q Okay. I'll show you what I'm going to
09 mark as Exhibit 12 to your deposition, which
10 consists of the pages right in front me,
11 TI300078 through 79.

12 A (Witness reviews document.)

13 Q Is that a letter to you dated December
14 26, 2002?

15 A Yes, sir.

16 Q And that letter is advising you that
17 your premiums will increase to four hundred and
18 eighty dollars; is that correct?

19 A Yes, sir.
20 Q And, again, the fourth paragraph says,
21 everyone with coverage such as yours will
22 experience an increase. Therefore, your premium
23 will increase to four hundred and eighty dollars

00064

01 on January 26, 2003; correct?
02 A Correct.
03 Q Last one. I'll show you two documents
04 Bates labeled TI300087 through 88.

05
06 (Whereupon, Defendants' Exhibit
07 Number 13 was marked for identification
08 and copy of same is attached hereto.)

09
10 Q Is that a letter to you dated June 26,
11 2003?

12 A Yes, sir.

13 Q And this one is advising you that your
14 premiums will increase to five hundred and
15 thirty-one dollars; correct?

16 A Yes, sir.

17 Q Again, the fourth paragraph says,
18 everyone with coverage such as yours will
19 experience an increase. Therefore, your billing
20 amount will increase to five hundred and
21 thirty-one dollars on June 26, 2003 ;correct?

22 A Yes.

23 Q Mr. Tillerson, you've -- according to
00065

01 these records, it appears that you had your
02 first rate increase on -- in December of 1998.
03 Does that sound correct?

04 A Yes, sir.

05 Q Do you recall a rate increase before
06 then?

07 A No, I don't recall it.

08 Q Okay. And since then, your premiums --
09 other than when you changed to Plan D in July of
10 1999, your premiums have increased; correct?

11 A Correct.

12 Q And that's -- they've gone from three
13 hundred and ten dollars a month, dropped down to
14 two hundred and sixty-nine dollars a month in
15 July 1999 when you changed plans; correct?

16 A Correct.

17 Q And then they started going up. And
18 through July 26 of 2003, they have increased
19 from two hundred and sixty-nine dollars a month
20 to five hundred and thirty-one dollars a month;
21 correct?

22 A Correct.

23 Q And you were aware of those premium
00066

01 increases; correct?

02 A Correct.

03 Q And you had been paying those premium

04 increases that whole time; correct?

05 A Yes. True.

06 Q What evidence do you have that you were
07 singled out for any of those increases?

08 MR. COUCH: Object to the form.

09 A Like I said, I didn't know anything
10 about it until I talked to Mr. Couch here about
11 what was going on. I mean, the letter said that
12 everybody was getting an increase, so I thought
13 that's what was going on.

14 Q What evidence do you have that would
15 show that everyone wasn't getting an increase?

16 MR. COUCH: Same objection.

17 A Like I said, I -- my lawyer, Mr. Couch,
18 he's -- he informed me of everything and that
19 would be something you'd have to get from him, I
20 guess.

21 Q You started -- I think we went over
22 with your hyperthyroid. That was seven or eight
23 years ago, correct, that you were diagnosed?

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01 A Well, I would have to get my medical
02 records to be exactly sure, but some --
03 somewhere along -- somewhere along those lines,
04 I would say.

05 Q Well, was it --

06 A You may -- I don't know. You may have
07 them. Sue may have already turned those over.

08 Q Was it before October of 2003 when you
09 were diagnosed with hyperthyroid?

10 A To be honest, I don't remember. I
11 mean, I've had it awhile.

12 Q What evidence do you have that you were
13 singled out for rate increases due to your
14 medical conditions?

15 MR. COUCH: Object to the form.

16 A Like I said, you would have to talk to
17 Mr. Couch about that.

18 Q Well, understand, I can't put Mr. Couch
19 under oath and he's not a witness in this case.
20 I'm trying to find out -- let me just ask it
21 this way. Are you aware of any facts that would
22 prove that you were singled out for a rate
23 increase?

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01 MR. COUCH: Other than what he got from
02 his conversation with me, I'm assuming?

03 A Well, that would be my answer, only
04 what I've been told by Mr. Couch. I -- you
05 know, I -- other than that, no, I don't --

06 Q Is he going to get on -- is he going to
07 get on the stand and testify? Who's going to
08 testify as to the --

09 MR. COUCH: Let's go off the Record a
10 minute.

11

12 (Whereupon, a discussion was held off

13 the Record.)

14

15 Q Mr. Tillerson, I understand what you
16 said is what you learned from your attorney.
17 Outside of what you learned from your attorney,
18 are you aware of any facts that would tend to
19 prove that you were singled out for a rate
20 increase?

21 A Outside of that, no.

22 Q Okay. Are you aware of any facts that
23 would tend to prove that you received a rate

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01 increase due to your medical conditions?

02 A Could you explain that a little
03 better?

04 Q Sure. Are you aware any facts that you
05 would say would prove that you received a rate
06 increase due to your claim history and your
07 medical condition?

08 A I'm not aware of any facts to that
09 other than what I was explained by Mr. Couch,
10 so, no.

11 Q Okay. You are aware that since 1998,
12 other than whenever you dropped your change in
13 coverage down to a Plan D -- or to Plan D, that
14 your premium increases have gone up every six
15 months?

16 A Yes.

17 Q Your premiums have gone up every six
18 months?

19 A Correct.

20 Q And you've known that -- you knew that
21 each time you got a premium increase; right?

22 A Yes.

23 Q Tell me how you suffered any damage as
00070

01 a result of purchasing this policy from -- the
02 PFL policy.

03 MR. COUCH: Object to the form.

04 A Damages. I really couldn't say damages
05 other than the fact that, you know, I just knew
06 I had to have coverage, so I paid the premiums,
07 you know. And, like I said, I had checked
08 around some other places but nobody would take
09 me, so -- you know, I had to have insurance, so
10 I kept it up. And I was just -- I just kept
11 wondering, you know, how much is it going to go
12 up. Am I going to end up being able to pay for
13 this one day when I need it, you know.

14 Q And you've been paying your premiums,
15 and when you filed claims, your claims have been
16 paid in accordance with the terms and conditions
17 of your policy; correct?

18 A As far as I know.

19 Q And you don't have any complaints about
20 what's been paid on your claims, do you?

21 A As far as I know. You know, it's --

22 no.

23 Q Okay. Well, I mean, you were the one

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01 that would have to deal with that; right? You
02 were the one that would get bills from your
03 either your medical providers or the hospital or
04 --

05 A Right. Right. Right.

06 Q And so you would know --

07 A Right. I'd have to -- I'd have to pay
08 the difference, you know, and I paid it.

09 Q And all this time since 1996 until, I
10 guess, sometime last year, you've been paying
11 your premiums, and when you submitted claims,
12 the claims have been paid to your satisfaction;
13 is that correct?

14 A I would have to say yeah.

15 Q Okay. And it wasn't until you saw this
16 ad on the TV that -- that -- I understand the
17 premium increases were something you were
18 concerned about?

19 A Right. I mean, they concerned me, but,
20 you know, like I said, I -- like the letter
21 said, it was for everybody across the board, and
22 then, you know, I saw the ad and I was like, you
23 know, what's going on here.

00072

01 Q Okay. And you're not aware of any
02 facts that would prove that it wasn't for
03 everyone across the board?

04 A Other than what me and Mr. Couch have
05 talked about, no.

06 Q Okay. One of the things that -- that
07 makes up the elements of your claim is -- is
08 damage. And that's what I'm trying to find out
09 is how you were damaged as a result of
10 purchasing this policy.

11 A Well --

12 MR. COUCH: Object to the form.

13 A You know, like I said, the way I was
14 looking at it, you know, I wondered when, you
15 know, this price increase would, you know, level
16 out, stop, whatever you want to say, because I'm
17 looking at the future and thinking, you know,
18 what happens one day down the road when I can't
19 afford these premiums anymore and I have one of
20 these deals where I have to go in and have
21 something major medical done. I'm going to lose
22 everything. You know, my house, everything.
23 And so I'd say that that was -- you know,

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01 weighed pretty heavy, but...

02 Q But that's something that's been taken
03 care of now that you're at Ram Tool and you have
04 BlueCross; correct?

05 A Since I -- since I have been on there.

06 Of course, I haven't made a claim with BlueCross

07 because of the time period I'm having to wait.
08 That's why I'm still having to keep up the
09 insurance with MEGA.

10 Q And they're still paying your claims as
11 submitted?

12 A As far as I know.

13 Q Okay. Have you sought any type of
14 treatment for any worry or anxiety or anything
15 like that that you may have suffered as a result
16 of finding out that the policy was allegedly not
17 what you were told?

18 A No.

19 Q Okay. You've not gone to a
20 psychologist or psychiatrist?

21 A No.

22 Q Or not sought any type of counseling?

23 A No.

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01 Q Not on any kind of medication for any
02 worry or anxiety or anything like that?

03 A No.

04 Q Your concern was the premiums
05 continuing to increase and being afraid that one
06 day you might not be able to afford it; is that
07 right?

08 A I'm just saying, yeah, that -- that was
09 a major concern for me. That definitely would
10 be for anybody.

11 Q Did you seek any sort of professional
12 help to -- for that concern?

13 A No.

14 Q Did you talk to any sort of pastor or
15 anything about that about such concerns?

16 A No.

17 Q Did you talk to anyone about those
18 concerns?

19 A You know, family members. Things like
20 that.

21 Q Who did you talk to?

22 A Sue, my father, you know.

23 Q Anybody else?

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01 A Well, not really because, you know,
02 they're so related to the work I was doing and
03 with my insurance, you know. Just, you know,
04 talked to them about it. And that's about it as
05 far as my recollection is. No, I didn't talk to
06 anybody about it.

07 Q Well, when did you first talk to Sue
08 about being concerned about the premium
09 increases and not being able to afford it?

10 A I don't remember exactly when it was.
11 It was after they'd gone above five hundred
12 dollars.

13 Q Well, they first went above five
14 hundred dollars in -- on June 26, 2003?

15 A Okay. If you say -- if you say so. I

16 just remember, you know, thinking my God, you
17 know.

18 Q Would you have talked to Sue after you
19 got that premium increase about being concerned
20 about it?

21 A Well, like I said, I didn't go into
22 nothing heavy, but I made mention of it, you
23 know. I don't remember exactly when it was or

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01 what was said.

02 Q Okay.

03 A I just remember talking to her about
04 it.

05 Q I mean, once you got that letter, that
06 would be something fresh on your mind. Would it
07 be logical that you would probably talk to her
08 around the time you received that letter?

09 A Well, yeah. But I mean, it -- I don't
10 see Sue every day or sometimes every week, so,
11 you know, I can't say exactly when it was but it
12 was around there.

13 Q Okay. What did you tell Sue?

14 A Just what I explained to you. You
15 know, the fact that -- wondered -- it seemed
16 like every six months I was getting an increase
17 and just wondering how long it was going to go
18 on and I hoped work stayed good so I could pay
19 it.

20 Q Anything else?

21 A As far as I remember, that was it.

22 Q What did Sue say?

23 A I don't remember what she said, you

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01 know. You know how people are. They agree and
02 that's about it.

03 Q Okay. What did you talk to your father
04 about? What did --

05 A Same thing basically. I mean, I can't
06 remember exact, you know, words verbatim, but
07 basically the same thing.

08 Q Do you recall what you father said?

09 A No, sir.

10 Q Did this conversation with Sue and your
11 father -- did it occur at the same time or were
12 these separate conversations?

13 A Separate.

14 Q Okay. Have you talked to anybody else
15 about this other than talking to somebody at the
16 Gardberg (sic) firm and talking to Mr. Couch?

17 A Not to my recollection, no, sir.

18 Q Did you ever talk to anybody at PFL
19 about it?

20 A Personally I did not. Now, I can't
21 answer for Sue. I don't know if she did or not.

22 Q Has Sue -- did Sue ever tell you she
23 talked to somebody at PFL about it?

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01 A Not that I can remember. I know she
02 has called them in the past about other things,
03 but that I -- I can't say for sure.

04 Q Okay. Did you ever have any
05 conversations with anybody at MEGA about the
06 premium increases that you were receiving?

07 A No, sir.

08 Q Do you know if Sue ever had any
09 conversations with anybody at MEGA?

10 A Not that I know of.

11 Q Did you ever have any conversations
12 with Transamerica Life concerning the premium
13 increases?

14 A No.

15 Q Do you know if Sue ever had any
16 conversations?

17 A No, sir. I can't answer that.

18 Q Do you know if anybody -- let me ask
19 you this. Did you ever have any conversations
20 with anyone at National Association for the
21 Self-Employed about your insurance coverage and
22 the premium increases?

23 A No, sir.

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01 Q Do you know if Sue ever had any
02 conversations with anybody at NASE?

03 A I can't say for Sue. Not that I know
04 of.

05 Q Do you know if anybody acting on your
06 behalf had any conversations with any of the
07 insurance carriers or NASE about your coverage
08 and the premium increases that you were
09 receiving?

10 A Once again, I -- as far as I know, no,
11 because I can't answer for Sue.

12 MR. LAMPKIN: Okay. Give me a minute.
13 We may be done.

14 MR. COUCH: Okay.

15

16 (Whereupon, a brief recess was had in
17 the proceeding.)

18

19 Q Mr. Tillerson, have you told me
20 everything that you are aware of in relation to
21 what you say my clients -- the insurance
22 companies and NASE -- did that you say was
23 wrong?

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01 A I'm sorry. Hit me with that again.

02 Q That was a bad question. Is there
03 anything else that we've not discussed that you
04 say the insurance companies did that caused you
05 any sort of damage?

06 MR. COUCH: Object to the form.

07 A To the best of my recollection, no, not
08 at this time. I -- you know, we've gone over
09 quite a bit, so...

10 Q I understand. We've been -- we've been
11 going at it about two hours.

12 But to the best of your knowledge,
13 you've told me everything?

14 A To the best of my knowledge, yes.

15 Q Okay. And you've told me about all the
16 conversations that you've had with -- with
17 anybody associated with the insurance; correct?

18 A Yes, sir.

19 Q And I understand Sue may have had
20 conversations, and I need to talk to her about
21 those; correct?

22 A Correct.

23 MR. LAMPKIN: I think that's it. I

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01 think we're done.

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01 C E R T I F I C A T E

02

03 STATE OF ALABAMA)

04

05 COUNTY OF MONTGOMERY)

06

07

08 I hereby certify that the above and
09 foregoing deposition was taken down by me in
10 stenotype, and the questions and answers thereto
11 were transcribed by means of computer-aided
12 transcription, and that the foregoing represents
13 a true and accurate transcript of the testimony
14 given by said witness upon said hearing.

15 I further certify that I am neither of
16 counsel, nor kin to the parties to the action,
17 nor am I in anywise interested in the result of
18 said cause.

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STACEY L. JOHNSON, Certified
Shorthand Reporter and
Commissioner for the State of
Alabama at Large.